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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

CARDELL VAN MATHIS,

Plaintiff - Appellant,

v.

A. KNOWLES, Warden; et al.,

Defendants - Appellees.

No. 03-15532

D.C. No. CV-01-00985-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Submitted August 15, 2003**

Before: SKOPIL, FERGUSON, and BOOCHEVER, Circuit Judges.

California inmate Cardell Van Mathis appeals the dismissal for failure to exhaust administrative remedies of his 42 U.S.C. § 1983 action against prison

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

officials, and the district court's refusal of his request to appoint counsel. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Section 1997(3)(a) of Title 42, United States Code, states that prisoners must exhaust administrative remedies before bringing a federal action with respect to prison conditions. Mathis did not exhaust his administrative remedies before filing his complaint in May 2001. Any attempts to exhaust following the filing of his action must be disregarded, as the statute requires exhaustion before the filing of the suit. See McKinney v. Carey, 311 F.3d 1198, 1199 (9th Cir. 2002) (per curiam).

It was not an abuse of discretion to deny Mathis' request for appointment of counsel, as his case does not present any exceptional circumstances. See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1990).

AFFIRMED.